



**HOME BUILDERS & REMODELERS ASSOCIATION  
OF CONNECTICUT, INC.**

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*Your Home  
Is Our  
Business*

March 11, 2013

To: Senator Steve Cassano, Co-Chairman  
Representative Jason Rojas, Co-Chairman  
Members of the Planning and Development Committee

From: Bill Ethier, CAE, Chief Executive Officer

Re: **HB 5242, AA Expanding Fee In Lieu Of Open Space Programs**

The HBRA of Connecticut is a professional trade association with about nine hundred (900) member firms statewide employing tens of thousands of CT's citizens. Our members, all small businesses, are residential and commercial builders, land developers, remodelers, general contractors, subcontractors, suppliers and those businesses and professionals that provide services to our diverse industry and to consumers. Our members build between 70% to 80% of all new homes and apartments in the state each year.

**We are strongly opposed to HB 5242 (as we are to HB 5966, which you heard on February 13). The proposed bill violates the Constitution's takings clause, is not supported by CT case law and violates fundamental notions of fairness and responsibility. We urge you to review the reasons to not support this concept that we made in our testimony on HB 5966, some of which we repeat here.**

The question, again, is not whether sidewalks are a vital part of a transportation system; the question is who should pay for them. If a municipality needs sidewalks in a new subdivision, then requiring them there is certainly permissible and we accept the obligation to construct them. But if sidewalks are not appropriate or necessary in a particular new subdivision, the only appropriate thing for the municipality to do is to waive the requirement. Many towns already do this.

Taking money from buyers of new homes to pay for public needs elsewhere in a municipality, the burden for which should be on the entire community, creates one more barrier to producing homes at a reasonable cost and it is simply neither just nor fair. Developers will be subject to more extortion from local planning commissions. Extortion is not a term we use lightly, but these types of monetary exactions have been recognized as such by the Supreme Court. It should not be condoned by the legislature, as it surely would not be by the courts.<sup>1</sup>

**We respectfully urge the committee to not pass this new fee legislation. Rather, we suggest that the proposed bill should amend 8-25 to read: "When considering an application for the subdivision of land, if such commission determines that sidewalks or any other development requirement would not serve a substantial purpose and provide an essential benefit to such subdivision, such requirement shall be waived by the commission or its agent." This would be the right thing to do.** Thank you for considering our views on this important matter.

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<sup>1</sup> See legal citations we made in our testimony on HB 5966.